

Remarks

The Office Action mailed April 18, 2006 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-5 and 7-32 are now pending in this application. Claims 1-5 and 7-32 stand rejected.

The rejection of Claims 1-5 and 7-32 under 35 U.S.C. § 103 as being unpatentable over U.S. Patent 5,875,430 to Koether (hereinafter referred to as “Koether”) in view of U.S. Patent 4,580,276 to Andruzzi et al. (hereinafter referred to as “Andruzzi”) is respectfully traversed.

Koether describes a plurality of kitchen base stations (150). Each kitchen base station (150) (B₁ –B₆) may interrogate a corresponding controller (140) of an appliance (A₁ -A₁₁) or the controller may request to transmit diagnostic information relating to a plurality of operating conditions of the kitchen appliances, which diagnostic information may be immediately communicated to a control center (170) (Col. 4, lines 25-28, Col. 5, lines 60-65). Each kitchen base station includes a microprocessor (167) that controls a plurality of activities of the base station and communication among the appliances and the kitchen base station (Col. 7, lines 54-57). Decisions are made by the microprocessor in accordance with data received from the control center (Col. 7, lines 57-59). The microprocessor includes a terminal keyboard and display unit (155) that allows a user to exchange information with the appliances as well as with the control center (Col. 7, lines 59-62).

Applicants respectfully traverse the assertion on page 4 of the Office Action that Koether describes “adjusting, by the diagnostic interface, a characteristic of the appliance.” Koether does not describe such a limitation. Rather, Koether describes a control center that “take[s] action as appropriate, including, among other things, downloading updated diagnostic software to controller 140, *dispatching a service vehicle 195* through a mobile kitchen center, or updating accounting and inventory information.” (Col. 2, lines 27-31 and Col. 6, line 1-5) Koether does not describe or suggest that downloading updated software,

dispatching a service vehicle, and/or updating accounting and inventory information includes adjusting a characteristic of an appliance. Moreover, Koether does not describe or suggest servicing an appliance, via a diagnostic interface, by adjusting a characteristic of an appliance. Rather, Koether describes *dispatching a service vehicle* to perform service and repairs.

Andruzzi describes an amplitude-shift keying/frequency-shift keying (ASK/FSK) data encoding and transmission scheme (Col. 1, lines 53-60). The ASK/FSK scheme encodes for a logical one, or mark, one unique frequency, or tone, and similarly a logical zero, or space, is designated by the use of a second unique frequency, or tone, in both the transmitting and receiving of data (Col. 1, lines 53-60). Further, the ASK/FSK scheme includes receiving the unique logical-one frequency for a set, predetermined period of time which at most is assigned an equivalence of one-half the total digital bit period of the "1" (Col. 1, lines 64-67). In a like manner, the second, distinct logical-zero frequency, or tone, is held "on" for a period of time less than or equal to one-half the total digital bit period of the "0" (Col. 2, lines 3-6). Implementation of the ASK/FSK scheme is accomplished by a modem (Col. 2, lines 11-14).

Claim 1 recites a method of performing service diagnostics on appliances, wherein the method comprises "connecting a diagnostic interface within a building housing the appliance to a local area appliance network, wherein the diagnostic interface includes a display; accessing an appliance in the local area appliance network; performing service diagnosis of the appliance through said diagnostic interface over the local area appliance network using service functions in the appliance; implementing the diagnostic interface within a single device including the display, a processing circuitry generating service commands to perform the service diagnosis, and a power line carrier modem configured to modulate data to communicate the data over an alternating current (AC) power line; and servicing, by the diagnostic interface, the appliance via the power line carrier modem, said servicing comprises at least one of adjusting a characteristic of the appliance and displaying to a technician the service diagnosis."

Neither Koether nor Andruzzi, considered alone or in combination, describes or suggests a method of performing service diagnostics on appliances as recited in Claim 1.

More specifically, neither Koether nor Andruzzi, considered alone or in combination, describes or suggests a method including servicing, by a diagnostic interface, an appliance, wherein the servicing includes adjusting a characteristic of the appliance, as required by Applicants' claimed invention. Rather, in contrast to the present invention, Koether describes performing a diagnostic on an appliance and requesting a service vehicle to perform service repairs, and Andruzzi describes implementing, by a modem, an amplitude-shift keying/frequency-shift keying (ASK/FSK) data encoding and transmission scheme.

Accordingly, for at least the reasons set forth above, Claim 1 is submitted to be patentable over Koether in view of Andruzzi.

Claim 32 has been canceled. Claims 2-5, 7-11, and 30-31 depend from independent Claim 1. When the recitations of Claims 2-5, 7-11, and 30-31 are considered in combination with the recitations of Claim 1, Applicants submit that dependent Claims 2-5, 7-11, and 30-31 likewise are patentable over Koether in view of Andruzzi.

Claim 12 recites a diagnostic interface for performing service diagnostics on appliances, wherein the diagnostic interface comprises "a display for viewing diagnostic and service information; processing circuitry for generating service commands for an appliance; and a power line carrier communication interface configured to be connected to a local area appliance network within a building housing the appliance, wherein said power line carrier communication interface facilitates transmitting the service commands to the appliance and receiving appliance diagnostic results on a power line carrier communication system, and said diagnostic interface implemented within a single device including said display, said processing circuitry generating the service commands to service the appliance, and said power line communication interface configured to modulate data to communicate the data over an alternating current (AC) power line, wherein said diagnostic interface configured to service the appliance via said power line carrier communication interface by at least one of adjusting a characteristic of the appliance and displaying to a technician the appliance diagnostic results."

Neither Koether nor Andruzzi, considered alone or in combination, describes or suggests a diagnostic interface for performing service diagnostics on appliances as recited in Claim 12. More specifically, neither Koether nor Andruzzi, considered alone or in combination, describes or suggests a diagnostic interface configured to service an appliance by adjusting a characteristic of the appliance, as required by Applicants' claimed invention. Rather, in contrast to the present invention, Koether describes performing a diagnostic test on an appliance and requesting a service vehicle to perform service repairs, and Andruzzi describes implementing, by a modem, an amplitude-shift keying/frequency-shift keying (ASK/FSK) data encoding and transmission scheme.

Accordingly, for at least the reasons set forth above, Claim 12 is submitted to be patentable over Koether in view of Andruzzi.

Claims 13-21 depend from independent Claim 12. When the recitations of Claims 13-21 are considered in combination with the recitations of Claim 12, Applicants submit that dependent Claims 13-21 likewise are patentable over Koether in view of Andruzzi.

Claim 22 recites a diagnostic system for providing access to service diagnostics on an appliance, wherein the system comprises "a local area appliance network coupled to the appliance; a diagnostic interface configured to be connected to said local area appliance network within a building housing the appliance, said diagnostic interface comprising a display, wherein said diagnostic interface facilitates accepting service diagnostics commands destined for the appliance, the diagnostics interface implemented within a single device including a display device, a microprocessor configured to generate the diagnostics commands, and a power line carrier modem configured to modulate data to communicate the data over an alternating current (AC) power line, wherein said diagnostic interface configured to service the appliance via said power line carrier modem by at least one of adjusting a characteristic of the appliance and displaying to a technician the diagnostic commands; and a dedicated appliance controller for receiving and executing the diagnostics commands."

Neither Koether nor Andruzzi, considered alone or in combination, describes or suggests a diagnostic system for providing access to service diagnostics on an appliance as

recited in Claim 22. More specifically, neither Koether nor Andruzzi, considered alone or in combination, describe or suggest a diagnostic system configured to service an appliance by adjusting a characteristic of the appliance, as is required by Applicants' claimed invention. Rather, in contrast to the present invention, Koether describes performing a diagnostic on an appliance and requesting a service vehicle to perform service repairs, and Andruzzi describes implementing, by a modem, an amplitude-shift keying/frequency-shift keying (ASK/FSK) data encoding and transmission scheme.

Accordingly, for at least the reasons set forth above, Claim 12 is submitted to be patentable over Koether in view of Andruzzi.

Claims 23-29 depend from independent Claim 22. When the recitations of Claims 23-29 are considered in combination with the recitations of Claim 22, Applicants submit that dependent Claims 23-29 likewise are patentable over Koether in view of Andruzzi.

Moreover, Applicants respectfully submit that the Section 103 rejection of the presently pending claims is not a proper rejection. As is well established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. Neither Koether nor Andruzzi, considered alone or in combination, describes or suggests the claimed combination. Further, in contrast to the Examiner's assertion, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Koether with Andruzzi because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicants' own teaching.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicant's disclosure. In re Vaeck, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

In the present case, neither a suggestion or motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. Further, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected in an attempt to arrive at the claimed invention. Since there is no teaching or suggestion in the cited art for the combination, the Section 103 rejection appears to be based on a hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present invention. Of course, such a combination is impermissible, and for these reasons, along with the reasons given above, Applicants request that the Section 103 rejections Claims 1-5 and 7-32 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



Eric T. Krischke
Registration No. 42,769
ARMSTRONG TEASDALE LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102-2740
(314) 621-5070